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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/509,280	03/20/2000	PETER ROWAN KELLOCK	SPR6147P0010	3713
32116 7590 08/18/2009 WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661				
EXAMINER AN, SHAWN S				
ART UNIT 2621		PAPER NUMBER		
MAIL DATE 08/18/2009		DELIVERY MODE PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/009,280

**Applicant(s)**

KELLOCK ET AL.

**Examiner**

SHAWN AN

**Art Unit**

2621

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 April 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20, 22, 24-43, 45, 47-66, 68 and 100-117 is/are pending in the application.
- 4a) Of the above claim(s) 8, 11-14, 17-19, 31, 34-37, 40-42, 54, 57-59 and 63-65 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9, 10, 15, 16, 20, 22-24, 30, 32, 33, 38, 39, 43, 45, 47-53, 55, 56, 60-62, 66, 68 and 100-117 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Response to Amendment***

1. As per Applicant's instruction as filed on 4/27/09, claims 47, 111, and 117 have been amended, claims 21, 23, 44, 46, 67, and 69-99 have been canceled, and specification has been amended.

### ***Specification***

2. The amendment filed 4/27/09 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

"Still further, the software can also be loaded into the computer system 28 from another computer readable medium on which the data is stored, including magnetic tape, a ROM or integrated circuit, a magneto-optical disk, the data storage medium of another device which is arranged to transmit the program to the user's computer over a radio or infra-red transmission channel, a computer readable card such as a PCMCIA card, the data storage device of a server supporting a website connected to the Internet and an Intranets, and the data storage device of a server supporting an email transmission over the Internet or Intranet. The foregoing is merely exemplary of relevant computer readable mediums".

Applicant is required to cancel the new matter in the reply to this Office Action.

### ***Response to Remarks***

3. Applicants' Remarks as filed 4/27/09 have been fully considered but they are not persuasive. The Applicant presents arguments comprising:

A) claims 1 and 115 are overcome in view of the amendment to the specification; and

B) claims 47 and 117 are overcome in view of the amendment to the specification;

However, after careful scrutiny of Applicant's specification, the Examiner must respectively disagree, and maintain the grounds of rejection for the reasons that follow.

In response to the argument A), the Applicant's amended specification doesn't change the fact that Applicant still indicates the system described with reference to Figures 1 to 10 may be implemented as software, or a computer program, executing on the computer, which is not embodied in a computer readable medium, which is still considered non-statutory subject matter, since acceptable language in computer processing related claims must include a computer readable medium, wherein claims 1 and 115 clearly lacks such computer readable medium when the recited claim limitation "A system" clearly implies (as above) that the system can be implemented as software, or a computer program (Applicant; page 35, lines 7-9);

In response to the argument B), the Applicant's amended specification doesn't change the fact that Applicant still defines the computer readable medium on which data is stored, wherein data storage medium is arranged to transmit the program to the user's computer over a radio (signal) or infra-red transmission channel (signal, carrier wave, bandwidth)..., wherein the foregoing is merely exemplary of relevant computer readable medium, wherein the recited claim limitation "a computer product" is still considered non-statutory subject matter, since it is non-statutory for computer processing related claims to claim signals such as "transmission media", "carrier wave", and/or "radio signals" (Applicant; page 36, lines 5-14).

**Note:** Applicant is reminded that the currently pending 101 rejection is made based on improper usage/definition of computer processing related claims disclosed in the Applicant's specification.

#### ***Claim Rejections - 35 USC § 101***

**4.** 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-7, 9-10, 15-16, 19-20, 22, 47-53, 55-56, 60-62, 65-66, 68, 100-105, and 112-117 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as previously discussed in the last Office action as filed on 1/22/09.

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to *Shawn An* whose telephone number is 571-272-7324.

8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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9. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

/SHAWN AN/

Primary Examiner, Art Unit 2621

8/15/09

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